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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of  
Telephone Number Portability

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)  
) CC Docket No. 95-116  
) RM 8535  
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)

To: The Commission

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PETITION FOR RECONSIDERATION AND CLARIFICATION OF  
NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Date: August 26, 1996

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**I. INTRODUCTION**

Pursuant to Section 1.429 of the Rules of the Federal Communications Commission ("Commission"), Nextel Communications, Inc. ("Nextel") respectfully submits this Petition for Reconsideration of the Commission's First Report and Order ("Order") in the above-captioned proceeding.<sup>1/</sup>

In the Order, the Commission promulgated rules and regulations to implement service provider telephone number portability, as mandated by Congress in the Telecommunications Act of 1996.<sup>2/</sup> The Commission concluded that all local exchange carriers ("LECs") and certain Commercial Mobile Radio Service ("CMRS") providers must implement long-term number portability by 1998 and 1999, respectively.<sup>3/</sup> The Commission declined to "choose a particular

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<sup>1/</sup> First Report and Order and Further Notice Of Proposed Rule Making, FCC 96-286, released July 2, 1996.

<sup>2/</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See Order at para. 3.

<sup>3/</sup> Id.

methodology for providing number portability," leaving those decisions to each of the states.<sup>4/</sup>

Nextel has fully supported the implementation of long-term service provider number portability in this proceeding.<sup>5/</sup> Nextel supports this aspect of the Order, but consistent with its prior comments, disagrees with the Commission's decision to leave the specific implementation decisions to each state.<sup>6/</sup> The Commission was correct in finding that the public interest is better served by its establishing "performance criteria" for the long-term number portability solution, but erred in leaving each state to establish its own particular methodology. This approach is not in the public interest as it will create unnecessary costs, complexities and confusion, thereby compromising the very competition that number portability is intended to further. Nextel, therefore, seeks reconsideration of the Commission's decision to allow each state to develop its own long-term telephone number portability plan.

Nextel also seeks clarification of the Commission's definition of "covered SMR" for purposes of applying the number portability requirements. As stated in the Order, the definition encompasses more than just those SMR providers offering mass-marketed enhanced wireless services to the public. The Commission should clarify

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<sup>4/</sup> *Id.*

<sup>5/</sup> See Comments and Reply Comments of Nextel filed in this proceeding.

<sup>6/</sup> See *Id.* at para. 46.

that the number portability requirements are not applicable to local, non-cellular SMR systems providing primarily dispatch services to the public.

## II. DISCUSSION

### A. The Commission Should Ensure That There Is Only One Nationwide Number Portability Methodology

As Congress and the Commission have concluded, long-term telephone number portability is in the public interest. It "provides customers flexibility in the way they use their telecommunications services and promotes the development of competition among alternative providers of telephone and other telecommunications services."<sup>7/</sup> A long-term number portability solution will ease market entry by eliminating a barrier currently imposed upon new service providers, i.e., the inability to attract customers who would have to change their phone number to receive the new entrant's services.

Nextel also supports the Commission's decision not to choose a particular long-term number portability methodology.<sup>8/</sup> Leaving this decision to the industry ensures that there is sufficient industry input for this complex undertaking, and does not prematurely discount any particular methodology. However, Nextel does not agree with the Commission's decision to permit industry solutions on a state-by-state basis. Although each state is required to follow the Commission's "performance criteria" as

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<sup>7/</sup> *Id.* at para. 28.

<sup>8/</sup> *Id.* at para. 3.

outlined in the Order,<sup>9/</sup> the result will likely be a patchwork of number portability methodologies requiring carriers to implement differing processes in various states.

Nextel recognizes, as does the Commission, that some states are already moving towards the deployment of "compatible methods," but a conclusion that all states will implement "compatible methods" is merely speculative, and even compatible methods can require different operational and technical upgrades for implementation. A differing number portability plan for each state (or only a handful of states) adds unnecessary complexity to telephone number portability solutions and dramatically increases implementation costs for multi-state service providers.<sup>10/</sup>

Nextel therefore respectfully requests that the Commission reconsider its decision to leave number portability deployment to each of the states. The Commission instead should follow its own example and use a process similar to that used for implementing 800 number portability. Employing the performance criteria established in the Order, a singular industry committee, composed of state officials, federal officials, service providers and equipment

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<sup>9/</sup> See *Id.* at paras. 48-61.

<sup>10/</sup> As a nationwide provider, Nextel is particularly aware of the hurdles that could be created by a state-by-state number portability implementation process. Rather than upgrading its system to meet the requirements of a single portability plan, Nextel's system would have to employ a number of varying upgrades throughout the country. The Commission does not promote competition when it encourages multi-state, regional, wide-area and even nationwide services, e.g. Major Trading Area-based licenses, but shirks from requiring a consistent service provider number portability technology across state boundaries.

manufacturers, would generate significant industry input, extensive participation by the states (particularly those that have already been studying and testing various portability solutions), and -- most importantly -- would establish a single, nationwide implementation methodology.

Given the number of states that have already initiated service provider portability investigations, their participation in a nationwide number portability study group would be invaluable. Their experimentation in number portability methodologies, moreover, offers the industry sound testing experiences for implementation of the most effective and efficient portability methodology. Thus, state input should be a significant part of establishing a singular nationwide implementation plan. Once that plan is determined, carriers -- particularly multi-state providers like Nextel -- would know exactly what system upgrades would be required, and those upgrades could be deployed more efficiently and expeditiously throughout the system and in every state. This process would promote rapid deployment of number portability and be significantly more cost-effective.

B. The Commission Should Clarify Its Definition Of "Covered SMR"

In the Order, the Commission concludes that service provider number portability is required of "cellular, broadband PCS, and covered specialized mobile radio (SMR) providers (as defined in the First Report and Order in CC Docket No. 94-54)."<sup>11/</sup> In the First Report and Order in CC Docket No. 94-54 (hereinafter "Resale

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<sup>11/</sup> Order at para. 155.

Order"), the order extending the cellular resale obligation to other CMRS carriers, the Commission defined "covered SMRs" as those SMRs "that hold geographic area licenses" or "who have obtained extended implementation authorizations in the 800 MHz or 900 MHz SMR service, either by waiver or under Section 90.629 of [the] rules."12/ As Nextel has already stated in that proceeding, the Commission's definition, as written, is too broad because it encompasses SMR licensees and systems that the Commission correctly sought to exclude.13/

The Commission's definition is insufficiently clear given that a significant number of prospective geographic licensees and some extended implementation licensees are "local SMR licensees offering mainly dispatch services" to the public. The mere fact that an SMR operator has received a geographic license or an extended implementation grant does not mean it will configure its service on a "cellular-like" basis and offer enhanced wireless telecommunications services to the public. The current definition, therefore, may be read to include numerous SMR systems that the Commission appears to have expressly intended to exclude.14/

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12/ The Resale Order at para. 19.

13/ See Petition for Reconsideration and Clarification of Nextel Communications in CC Docket No. 94-54, filed August 23, 1996.

14/ As written, local, primarily dispatch SMR systems on the lower 230 SMR channels would be subject to this new obligation if they chose to obtain a geographic area license through the proposed auction and settlement process in the Industry Consensus Proposal. See Joint Reply Comments of SMR WON, the American Mobile Telecommunications Association, and Nextel, filed in PR 93-144 on March 1, 1996. The Commission must clarify its definition to avoid

On reconsideration, the Commission should amend and/or clarify the definition of "covered SMR" to ensure that it excludes those "local" SMR systems that offer, as the Commission described it, "mainly dispatch services to specialized customers in a non-cellular configuration." The term "covered SMR" should encompass only those SMR systems that offer consumers two-way voice services using a mobile telephone switching facility. This would ensure that "covered SMR" encompasses only high capacity SMR systems with the licensed channels divided into groups that are then assigned to specific geographic cells (as defined in Section 22.2), that can be reused in different cells within the service area and are capable of automatically handing off a mobile unit's call as that mobile unit travels throughout the service area.<sup>15/</sup>

Further, the Commission should make clear that the amended definition is applied on a system-by-system basis. A specific licensee could hold many SMR licenses -- some of them for single site dispatch, non-cellular systems; others for wide-area, two-way voice services using a switching facility. A single SMR licensee may provide cellular-like services on one system while providing only local, primarily dispatch services on another system. Therefore, consistent with the Commission's conclusion that local

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discouraging local SMRs from obtaining a geographic license in order to avoid regulatory requirements, such as number portability, that would impose more burdens on local dispatch systems than competitive benefits for customers.

<sup>15/</sup> See Section 22.2 of the Commission's rules for the definition of a "cellular" system. Nextel's proposed definition of "covered SMR" would ensure that only systems similarly configured to a cellular system would be covered by the resale obligations.



SMR systems could be overburdened by the imposition of number portability obligations, they should not be applied to any local SMR system -- regardless of who is operating it. The mere fact that Nextel, for example, may offer enhanced wide-area SMR services in New York does not warrant the imposition of number portability obligations on Nextel's local SMR systems in Arkansas and Kentucky.<sup>16/</sup> These local SMR systems are no different than any other local SMR, operated by any other licensee. Imposing the number portability obligation on such small, local systems could impose enormous costs on the system without corresponding benefits.

### III. CONCLUSION

Service provider telephone number portability is in the public interest as it will increase competition among telecommunications carriers and increase consumers' flexibility in using their telecommunications services. To rapidly, effectively and efficiently deploy service provider number portability, however, the Commission should reconsider its decision to permit each state to develop its own number portability plan. Although bound by the Commission's performance criteria in the Order, states will likely derive varying plans, creating unnecessary costs and possibly undesirable complexities for telecommunications carriers. The Commission, therefore, should reconsider the Order and permit the

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<sup>16/</sup> As with any local SMR system, providing primarily dispatch services, "the costs of applying the resale policy to [Nextel's local SMR] operations would presumably outweigh the benefits." Order at para. 19.

industry to develop a single, nationwide telephone number portability plan.

Respectfully submitted,  
**NEXTEL COMMUNICATIONS, INC.**

By, 

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**CERTIFICATE OF SERVICE**

I, Rochelle L. Pearson, hereby certify that on this 26th day of August 1996, caused a copy of the attached Petition for Reconsideration or Clarification of Nextel Communications, Inc. to be served by hand delivery to the following:

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